

Environmental Protection Agency

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processes or production unique to the owner or which tend to adversely affect a competitive position of the owner shall be held confidential.

(b) Delegation of authority: Pursuant to section 114 of the Act, South Dakota requested a delegation of authority to enable it to collect, correlate and re-release emission data to the public. The Administrator has determined that South Dakota is qualified to receive a delegation of the authority it requested. Accordingly, the Administrator delegates to South Dakota his authority under sections 114(a) (1) and (2) and section 114(c) of the Act, i.e., authority to collect, correlate, and re-release emission data to the public.

[37 FR 15089, July 27, 1972, as amended at 51 FR 40676, Nov. 7, 1986]

§§ 52.2174–52.2177 [Reserved]

§ 52.2178 Significant deterioration of air quality.

(a) The South Dakota plan, as submitted, is approved as meeting the requirements of part C, subpart 1 of the CAA, except that it does not apply to sources proposing to construct on Indian reservations;

(b) Regulations for preventing significant deterioration of air quality. The provisions of § 52.21 except paragraph (a)(1) are hereby incorporated and made a part of the South Dakota State implementation plan and are applicable to proposed major stationary sources or major modifications to be located on Indian reservations.

[43 FR 26410, June 19, 1978, as amended at 45 FR 52741, Aug. 7, 1980; 59 FR 47261, Sept. 15, 1994; 68 FR 11324, Mar. 10, 2003; 68 FR 74490, Dec. 24, 2003; 72 FR 72621, Dec. 21, 2007]

§ 52.2179 Visibility protection.

(a) The requirements of section 169A of the Clean Air Act are not met, because the plan does not include approvable procedures for protection of visibility in mandatory Class I Federal areas.

(b) Regulation for visibility monitoring and new source review. The provisions of §§ 52.26 and 52.28 are hereby incorporated and made a part of the applicable plan for the State of South Dakota.

(c) *Long-term strategy.* The provisions of § 52.29 are hereby incorporated and made part of the applicable plan for the State of South Dakota.

[50 FR 28553, July 12, 1985, as amended at 52 FR 45137, Nov. 24, 1987]

§ 52.2180 Stack height regulations.

The State of South Dakota has committed to revise its stack height regulations should EPA complete rule-making to respond to the decision in *NRDC v. Thomas*, 838 F.2d 1224 (DC Cir. 1988). In a letter to Douglas M. Skie, EPA, dated May 11, 1988, Joel C. Smith, Administrator, Office of Air Quality and Solid Waste, stated:

“* * * We are submitting this letter to allow EPA to continue to process our current SIP submittal with the understanding that if EPA's response to the NRDC remand modifies the July 8, 1985 regulations, EPA will notify the State of the rules that must be changed to comport with the EPA's modified requirements. The State of South Dakota agrees to make the appropriate changes.”

[53 FR 34079, Sept. 2, 1988]

§ 52.2181 [Reserved]

§ 52.2182 PM₁₀ Committal SIP.

On July 12 1988, the State submitted a Committal SIP for the Rapid City Group II PM₁₀ area, as required by the PM₁₀ implementation policy. The SIP commits the State to continue to monitor for PM₁₀ and to submit a full SIP if a violation of the PM₁₀ National Ambient Air Quality Standards is detected. It also commits the State to make several revisions related to PM₁₀ to the existing SIP.

[55 FR 40834, Oct. 5, 1990]

§ 52.2183 Variance provision.

The revisions to the variance provisions in Chapter 74:26:01:31.01 of the South Dakota Air Pollution Control Program, which were submitted by the Governor's designee on September 25, 1991, are disapproved because they are inconsistent with section 110(i) of the Clean Air Act, which prohibits any state or EPA from granting a variance from any requirement of an applicable

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implementation plan with respect to a stationary source.

[58 FR 37426, July 12, 1993]

§ 52.2184 Operating permits for minor sources.

Emission limitations and related provisions established in South Dakota minor source operating permits, which are issued in accordance with ARSD 74:36:04 and which are submitted to EPA in a timely manner in both proposed and final form, shall be enforceable by EPA. EPA reserves the right to deem permit conditions not federally enforceable. Such a determination will be made according to appropriate procedures and will be based upon the permit, permit approval procedures, or permit requirements which do not conform with the operating permit program requirements of EPA's underlying regulations.

[60 FR 46228, Sept. 6, 1995]

§ 52.2185 Change to approved plan.

South Dakota Air Pollution Control Program Chapter 74:36:07, New Source Performance Standards, is removed from the approved plan, except for sections 74:36:07:08, 74:36:07:11 and 74:36:07:29-30. On April 2, 2002, we issued a letter delegating responsibility for all sources located, or to be located, in the State of South Dakota subject to the specified NSPS in 40 CFR part 60. See the table in 40 CFR 60.4 for the delegation status of NSPS to the State of South Dakota.

[67 FR 57521, Sept. 11, 2002]

§ 52.2186 Original identification of plan section.

(a) This section identifies the original "Air Implementation Plan for the State of South Dakota" and all revisions submitted by South Dakota that were federally approved prior to November 15, 2004.

(b) The plan was officially submitted on January 27, 1972.

(c) The plan revisions listed below were submitted on the dates specified.

(1) Request for delegation of authority submitted January 27, 1972, by the Governor.

(2) Clarification of control regulations (section 1.8.4) submitted April 27,

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1972, by the State Department of Health.

(3) Clarification of control regulations (section 1.8.4) submitted May 2, 1972, by the Governor.

(4) On December 4, 1975, the Governor of South Dakota submitted revisions and additions to the air pollution control regulations (Article 34:10 of the Administrative Rules of South Dakota). The submittal updated rules and regulations; review procedures for new and modified direct sources; variance and enforcement procedure revisions; episode procedure changes; and the addition of new source performance standards similar to those of EPA.

(5) Provisions to meet the requirements of Part D of the Clean Air Act, as amended in 1977 were submitted on January 3, 1979.

(6) A new control strategy for Brookings, South Dakota was submitted on April 16, 1979.

(7) On January 21, 1980, the Governor submitted a plan revision to meet the requirements of Air Quality Monitoring 40 CFR part 58, subpart C, § 58.20, and Public Notification required under section 127 of the Clean Air Act.

(8) Provisions to meet the requirements of Part D of the Clean Air Act, as amended in 1977, were submitted on October 16, 1980.

(9) On September 13, 1982, the Governor submitted a plan revision for a new control strategy for Brookings, South Dakota and an amendment to the opacity regulation for alfalfa pelletizers.

(10) On May 4, 1984, the Governor submitted a plan revision for lead and repealed the hydrocarbon standard.

(11) On January 28, 1988, the Governor submitted a plan revision (1) updating citations to Federal regulations in the South Dakota air pollution control regulations (Administrative Rules of South Dakota 74:26), (2) adopting new ambient air quality standards for particulates (PM₁₀), (3) revising the State administrative procedures for handling permit hearings and contested cases, and (4) correcting deficiencies in the stack height regulations.

(i) Incorporation by reference.

(A) Revisions to the Administrative Rules of South Dakota (ARSD) 74:26:01:12, ARSD 74:26:01:35, ARSD